

**BEFORE THE
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION**

In the Matter of:

**EXCURSIONS UNLIMITED, INC.,
Respondent.**

**Docket No. FMCSA-2009-0151¹
(Southern Service Center)**

ORDER APPOINTING ADMINISTRATIVE LAW JUDGE

1. Background

On November 5, 2008, the Alabama Division Administrator, Federal Motor Carrier Safety Administration (FMCSA), issued a Notice of Claim to Respondent, Excursions Unlimited, Inc., proposing a civil penalty of \$2,390 for one alleged violation of 49 CFR 382.305(b)(2), for failing to conduct random controlled substances testing at an annual rate of not less than the applicable annual rate of the average number of driver positions.²

On December 2, 2008, Respondent replied to the Notice of Claim, denying the violation and requesting a formal hearing. Respondent contended that an examiner performed a review of Respondent's 2008 driver logs, not its 2007 logs; the Notice of Claim, however, charged Respondent with failing to test the required number of drivers for 2007.³

On May 26, 2009, Claimant, the Field Administrator for the Southern Service Center, FMCSA, consented to the request for a hearing because there were issues of fact

¹ The prior case number of this matter was AL-2009-0141-AL0382.

² See Government Exhibit A to Field Administrator's Consent to Hearing.

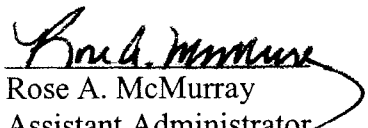
³ See Government Exhibit B to Field Administrator's Consent to Hearing.

in dispute. We agree. Therefore, pursuant to 49 CFR 386.16(b)(1), the matter is referred to the U.S. Department of Transportation's Office of Hearings.

2. Appointment of Administrative Law Judge

An administrative law judge is hereby appointed, to be designated by the Chief Administrative Law Judge of the Department of Transportation, to preside over this matter in accordance with 49 CFR 386.54, and render a decision on all issues, including the civil penalty, if any, to be imposed. The proceeding shall be governed by subparts D and E of 49 CFR Part 386 of the Rules of Practice and all orders issued by the administrative law judge.

It Is So Ordered.


Rose A. McMurray
Assistant Administrator
Federal Motor Carrier Safety Administration

7-6-09
Date

CERTIFICATE OF SERVICE

This is to certify that on this 9 day of July, 2009, the undersigned mailed or delivered, as specified, the designated number of copies of the foregoing document to the persons listed below.

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